

# The Requests of Scottish Clergy in the Registers of the *Sacra Penitenzieria Apostolica*, 1449–1542

JENNIFER R. McDONALD, B.A., Ph.D.

Scots can be counted among the many thousands of Latin Christians who ventured to the papal *curia* during the middle ages. For some, the long journey was undertaken to conduct diplomatic missions, or to represent the affairs of senior Scottish prelates or the king. For a substantial number, though, it was endured (either in person or through a procurator) in order to receive grace or favours from the apostolic successor. Too busy personally to consider the thousands of requests that were addressed to him, the pope authorised various officials in the *curia* to consider these requests on his behalf.<sup>1</sup> Thousands of Latin Christians, including Scots, received grace on the pope's behalf from the Papal Chancery, Datary and Penitentiary.

Records of supplications granted by these offices offer invaluable insight into life during the middle ages, providing evidence of devotional practices, marital customs, relations between the Holy See and the different regions of the Latin West, as well as the application of canon law throughout Latin Christendom. These records are an invaluable source for countries, like Scotland, which lack a significant body of native ecclesiastical sources. For instance, the absence of episcopal registers and ordination rolls – such as those available for England – has impeded research on the medieval Scottish church and clergy. To some extent, evidence from the papal archives has helped to overcome this problem. Material from the Registers of Supplications and Lateran registers provides information about ordained clergy and the benefices

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<sup>1</sup> Various popes had, since the thirteenth century, delegated their authority (through faculties) to officials in the *curia* to consider cases on their behalf. For a discussion, see Emil Göller, *Die päpstliche Pönitentiarie bis Eugen IV*, 2 vols. (Rome, 1907) i, 76-80, 85, 100-102, 108, 129-131; idem, *Die päpstliche Pönitentiarie von Eugen IV bis Pius V*, 2 vols. (Rome, 1911), ii, 103, 107.

they obtained. The Penitentiary material, by contrast, is particularly useful for analysis of clerical recruitment, training and ordination.

Most Scottish historians who have drawn on the source material in the Vatican archives have used supplications preserved in the Registers of Supplications and Lateran registers, which contain copies of letters issued by the Chancery and Datary.<sup>2</sup> To date, however, Scottish historians have largely neglected the material contained within the

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<sup>2</sup> See, for example, A.D.M. Barrell, *The Papacy, Scotland and Northern England, 1342-1378* (Cambridge, 1995); Eila Williamson, "Scottish Benefices and Clergy during the Pontificate of Sixtus IV, (1471-1484): the evidence in the *Registra Supplicationum*", 2 vols. (University of Glasgow, unpublished Ph.D. thesis, 1998); Annie I. Cameron, *The Apostolic Camera and Scottish Benefices, 1418-1488* (London, 1934); D.E.R. Watt, *Fasti Ecclesiae Scoticanæ Medii Aevi ad annum 1638* (Scottish Record Society, 2003); idem, *A Biographical Dictionary of Scottish Graduates to A.D. 1410* (Oxford, 1977); Ian B. Cowan, *The Parishes of Medieval Scotland* (Scottish Record Society, 1967); Leslie Macfarlane, "The Primacy of the Scottish Church, 1472-1521", *Innes Review*, 20 (1969), 111-129; idem, "The Elevation of the Diocese of Glasgow into an archbishopric in 1492", *Innes Review*, 43 (1992), 99-118; J.A.F. Thompson, "Innocent VIII and the Scottish Church", *Innes Review*, 19 (1968), 23-31; idem, "Some New Light on the Elevation of Patrick Graham", *Scottish Historical Review*, 40 (1961), 83-88; D.E.R. Watt, "The Papacy and Scotland in the Fifteenth Century", in R.B. Dobson, ed., *The Church, Politics, and Patronage in the Fifteenth Century* (Gloucester, 1984), 115-132; Norman Macdougall, "The Struggle for the priory of Coldingham, 1472-1488", *Innes Review*, 23 (1972), 102-114; idem, ed., *Church, Politics and Society: Scotland, 1408-1929* (Edinburgh, 1983); Mark Dilworth, "Coldingham Priory and the Reformation: Notes on Monks and Priors", *Innes Review*, 23 (1972), 115-137; idem, "The Social Origins of Scottish Medieval Monks", *Records of the Scottish Church History Society*, 20 (1980), 197-209; Ian B. Cowan, "The Religious and the Cure of Souls in Medieval Scotland", *Records of the Scottish Church History Society*, 14 (1962), 215-230. See other articles listed by Ian B. Cowan, "The Medieval Church in Scotland: A Select Critical Bibliography", *Records of the Scottish Church History Society*, 21 (1983), 91-111; idem, *The Medieval Church in Scotland*, ed. J. Kirk (Edinburgh, 1995).

registers of the Papal Penitentiary.<sup>3</sup> This is surprising given that Ian Cowan, J.J. Robertson, and others, were among the first who were allowed access to the material in the 1980s. The present work is devoted to Scottish supplications in the Penitentiary registers, and will focus specifically on petitions from clerics. It will examine the status and location of supplicants, and will discuss the content and patterns among their requests. It will conclude by illustrating what can be learned from these supplications, and will highlight their usefulness as a source for later medieval Scottish ecclesiastical history. The focus will be on supplications which were dispatched between 1449 – when there are no annual gaps in the registers – and 1542, the year that marks the end of Scotland's unquestioned obedience to Rome.<sup>4</sup>

### **The Penitentiary, Its Place and Function within the *Curia***

The correction of behaviour and the salvation of souls were, according to Pope Leo X (1513-1521), the daily business of the Papal Penitentiary.<sup>5</sup> The Penitentiary was an office of the papal *curia*

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<sup>3</sup> Only two articles have been published on the subject of Scotland and the Penitentiary. James J. Robertson, 'Scottish Legal Research in the Vatican Archives: a preliminary report', *Renaissance Studies*, 2 (1988), 339-346; Janet Foggie, 'Archivium Sacrae Penitentiariae Apostolicae in the Vatican Archives as a source for Scottish Historians', *Innes Review*, 47 (1996), 110-126. See the forthcoming publications of Jennifer McDonald, 'The Application of Canon Law in Medieval Scotland in light of the Evidence of the registers of the *Sacra Penitenzieria Apostolica*', in N. Linder, et al, eds., *Rechtstransfer in der Geschichte* (Lucerne, 2006), 171-191; idem, 'Illegitimate Scots in the Registers of Supplications and the Registers of the Apostolic Penitentiary during the Pontificate of Sixtus IV (1471-1484)', in G. Jaritz, T. Jørgensen, and K. Salonen, eds., *Et usque ad Ultimam Terrae: The Apostolic Penitentiary in Local Contexts* (Budapest, 2006), 50-59.

<sup>4</sup> The Penitentiary archives begin in 1409, yet there are significant gaps in these early registers. For information, see Kirsi Salonen, *The Penitentiary as a Well of Grace in the Late Middle Ages: The Example of the Province of Uppsala, 1448-1527* (Saarijärvi, 2001), 23-26.

<sup>5</sup> Ludwig Schmugge, "Cleansing on Consciences: Some Observations Regarding the Fifteenth-Century Registers of the Papal Penitentiary", *Viator*, 29 (1998), 345-361.

authorised to grant grace to supplicants – in the form of absolution, dispensation, special licence and declaration – on the basis of their request and on behalf of the pope. The office was not a court, although various historians have presumed it to be.<sup>6</sup> It did not overturn sentences passed in diocesan consistory courts, nor did it hear appeals from supplicants throughout Christendom. Its specific function was to grant grace which could only have been granted by the pope or his delegate.

The Penitentiary granted absolution to supplicants who committed sins which could only be absolved by papal authority. Some of the most common reasons for which supplicants applied for this form of grace included: murder/violence, apostasy and simony. The office also granted dispensation, which permitted supplicants to contravene the regulations of canon law. This form of grace was commonly granted to lay supplicants who were barred from marrying because of impediments, such as consanguinity or affinity. Secular clergy, on the other hand, often requested dispensation to be ordained to holy orders despite impediments, such as illegitimacy, while regular clergy were commonly granted dispensation to transfer from one religious house, or order, to another.<sup>7</sup>

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<sup>6</sup> See for example Leslie MacFarlane, *William Elphinstone and the Kingdom of Scotland, 1421-1514* (Aberdeen, Quincentenary edition, 1995), 69 n. 48, and Simon Ollivant, *The Court of the Official in Pre-Reformation Scotland* (Stair Society, 1982), 127-129.

<sup>7</sup> For further details, see Ludwig Schmugge, Patrick Hersperger, Beatrice Wiggerhauser, *Die Supplikenregister der päpstlichen Pönitentiarie aus der Zeit Pius II, 1458-1464* (Tübingen, 1996), 68-95; Schmugge, "Cleansing on Consciences", 350-361, and idem, "Female Petitioners in the Papal Penitentiary", *Gender and History*, 12 (2000), 155-173, Salonen, *Well of Grace*, 103-118, 251-278, and idem, "Finnish Illegal Marriages: 1449-1523", in Mia Korpiola, ed., *Nordic Perspectives on Medieval Canon Law* (Saarijärvi, 1999), 151-167; Per Ingelman, "Danish Marriage Dispensations: Evidence of an Increasing Lay Use of Papal Letters in the Late Middle Ages", in Kirsi Salonen and Christian Krötzel, eds., *The Roman Curia, The Apostolic Penitentiary and the Partes in the Later Middle Ages* (Rome, 2003), 129-158; Agnes S. Arnórsdóttir, "Icelandic Marriage Dispensations in the Late Middle Ages", in Salonen and Krötzel, eds., *The Apostolic Penitentiary and the Partes*, 159-170; Torstein Jorgensen and Gastone Saletnich,



Supplicants applied for special licence a disparate variety of reasons. Many requested licence to choose a personal confessor or to eat certain types of food during times of fasting. For others, licence was required to embark on pilgrimage to Jerusalem, as canon law required Christians to seek permission to interact with Jews and Muslims.<sup>8</sup> The Penitentiary also granted licence to clerics who desired to absolve supplicants from sins normally reserved to the pope or bishops. In addition, it granted licence (or faculties as they were described in supplications) authorising clerics to grant dispensation to couples or clerics who were affected by impediments.<sup>9</sup> Furthermore, the Penitentiary granted licence permitting supplicants to alienate ecclesiastical patrimony.<sup>10</sup> Clerical supplicants generally applied to alienate the land, while lay supplicants applied for licence to become tenants.<sup>11</sup> Licence was required because the land in question was granted to tenants who, as a result of the contract, became hereditary tenants. In order for such a transaction to be valid, canon law required the parties involved to receive licence.<sup>12</sup> During the sixteenth century,

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*Synder og Pavemakt: Botsbrev fra Den Norske Kirkeprovins og Snderøyene til Pavestolen, 1438-1531* (Stavanger, 2004), 133-156.

<sup>8</sup> X 5.6.6, 11, 12.

<sup>9</sup> Salonen, *Well of Grace*, 111.

<sup>10</sup> The faculty to grant these licences was given to the Penitentiary in the 1465. See Jennifer McDonald, "The Papal Penitentiary and Ecclesiastical Careers: The Requests of Scottish Clergy in the Registers of the *Sacra Penitenzieria Apostolica*, 1449-1542" (University of Aberdeen, unpublished Ph.D. thesis, 2005), 203-212.

<sup>11</sup> See for example, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 91, 608v-610r (21 October 1536). This supplication, from Robert Russ, a clerk from the diocese of St Andrews, was for licence to become the tenant of the lands of Easterbinning and Middlebinning (Perthshire) which were in the patrimony of Euphemia Lesley and Elcho (d. St Andrews, O.Cist.)

<sup>12</sup> According to canon law, ecclesiastical patrimony was *mortmain*, the dead hand, never to be sold or exchanged, although there were exceptions to this rule. See X 3.13.5-6, and McDonald "The Papal Penitentiary and Ecclesiastical Careers", 203-207.

Scots, both lay and clergy, frequently requested this type of licence to feu ecclesiastical lands.<sup>13</sup>

The fourth and final form of grace which the Penitentiary granted to supplicants was official declarations. Most supplicants who applied for these desired to be declared innocent of a crime, usually murder.<sup>14</sup> Declarations were also issued to supplicants who had been forced to make monastic profession and desired to abandon their lives as monks or nuns. In this instance, declaration was granted on the basis that forced monastic professions were invalid under canon law.<sup>15</sup> Declarations were also granted to nullify an invalid marriage. In doing so, the declaration enabled the parties to remarry legally, as divorce created an impediment to marriage.<sup>16</sup>

The Penitentiary did not maintain sole authority to grant grace in the above mentioned matters. Papal legates and collectors, for example, were empowered to grant dispensation to supplicants affected by impediments. So, too, could archbishops with legatine authority, or subordinate clerics who were granted special licence or faculties. In addition, the Chancery, and from the fifteenth century, the Datary shared the same faculty as the Penitentiary to dispense grace in matters ranging from marital impediments, impediments to holy orders,

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<sup>13</sup> Requests for these licences appear in the Penitentiary registers during the later part of the fifteenth century. Scottish requests do not, however, appear in the registers until after 1505, reflecting the growing surge of feu-ferm in Scotland as a result of the 1504 act of Parliament in which it was made lawful for every landowner, lay and ecclesiastic, to set their lands in feu. See, *APS*, ii, 244. On this act and its consequences see Norman Macdougall, *James IV* (East Linton, 1998), 158-159. See also, Margaret H.B. Sanderson, *Scottish Rural Society in the Sixteenth-Century* (Edinburgh, 1982), 64-123, cf. Table one, p. 65.; idem, *A Kindly Place: Living in Sixteenth century Scotland* (East Linton, 2002), 12-32; Mark Dilworth, *Scottish Monasteries in the Later Middle Ages* (Edinburgh, 1995), 45-46, and idem, "The Feuars of Kirklands", *Scottish Historical Review*, 52 (1973), 81-98.

<sup>14</sup> See Salonen, *Well of Grace*, 119-177, 278-339.

<sup>15</sup> X 3.11.1, 8, 11.

<sup>16</sup> On divorce in canon law, see Helmholz, *Marriage Litigation*, 74-111.

confession and murder.<sup>17</sup> In general, the Penitentiary was the primary office that received supplications involving such issues. Although the Chancery and Datary handled similar types of supplications, these were considered much less frequently. Why supplications involving illegitimacy or murder were directed to the Penitentiary rather than the Chancery or Datary remains uncertain.<sup>18</sup> What is certain is that noble supplicants were more likely to have received grace from the Chancery or Datary, perhaps because they could afford to pay the higher fees which were charged by these offices to expedite petitions. By contrast, the Penitentiary's fees for advancing supplications were much lower, and it is for this reason that it has been described by some as the pauper's court.<sup>19</sup> It is also known that the Chancery and Datary were empowered to collate those who had been dispensed (from an impediment) to a specific benefice. The Penitentiary did not possess a similar authority.<sup>20</sup> Rather, it only dispensed supplicants so that they could be ordained to holy orders and thereby qualify in principal for collation to a benefice with pastoral care. Moreover, the Chancery and Datary, unlike the Penitentiary, were authorised to grant expectative graces to supplicants who desired collation to a benefice, once available.<sup>21</sup> It is for these reasons that requests for collation to, and disputes over, benefices are found in the Registers of Supplications and the Lateran Registers, rather than those of the Penitentiary.

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<sup>17</sup> Salonen, *Well of Grace*, 45.

<sup>18</sup> Patrick Zutschi argues that supplicants themselves, or their procurators, chose the office to which their petitions were submitted. See idem, "*Inextricabilis curie labyrinthus* – The Presentation of Petitions to the Pope in the Chancery and Penitentiary during the Fourteenth and first half of the Fifteenth Century", in Andreas Meyer, Constanze Rendtel, and Maria Wittmer-Butsch, eds., *Päpste, Pilger Pönitentiarie: Festschrift für Ludwig Schmugge zum 65. Geburtstag* (Tübingen, 2004), 393-410.

<sup>19</sup> Salonen, *Well of Grace*, 424.

<sup>20</sup> Salonen, *Well of Grace*, 196.

<sup>21</sup> Williamson, "Scottish Benefices and Clergy", 168-172.

It is estimated that, on any given day, the Penitentiary could have received up to 100 supplications – or between 3,000 and 4,000 annually.<sup>22</sup> These requests were recorded in abbreviated form into registers. Each, depending on the content involved, was registered under one of nine headings or categories. Appendix One illustrates the categories of supplications in the registers.

### **Scottish Supplications in the Penitentiary Registers**

Between 1449 and 1542, the Penitentiary granted grace to 3,097 Scottish supplicants. Of these, 1,475 were laity, and 1,622 identified themselves as clerics. The majority of lay supplicants, approximately 1,100, requested dispensation to marry despite impediments.<sup>23</sup> A further 200 requested licence to retain ecclesiastical patrimony through feu-farm. At the same time, 100 requested licence to choose a personal confessor, while seventy-five requested absolution from sins. Fifty-five of these supplicants confessed to murdering or wounding a cleric. Perhaps the most notorious among them was David Hume of Wedderburn, who, in 1521, requested absolution for the murder of Robert Blackadder, prior of Coldingham.<sup>24</sup> The fragmentary evidence surrounding the prior's death has made scholars question whether Hume or his English accomplices had actually murdered Blackadder.<sup>25</sup> The Penitentiary evidence leaves no doubt that Wedderburn was responsible for the prior's death.

The discussion is, as noted earlier, focused on supplications from Scottish clerics. Of the 1,622 supplicants analysed, 1,127 were candidates for holy orders, while 495 had already been ordained. Appendix Two provides the status of the supplicants analysed, and illustrates that clerics from the highest to lowest order of the

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<sup>22</sup> This number increased substantially during Jubilee Years. For example, 10,000 supplications were granted by the Penitentiary during the Jubilee year of 1450. Salonen, *Well of Grace*, 42.

<sup>23</sup> I must thank Irene Furneaux for this information.

<sup>24</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 68, fol. 573r-574r.

<sup>25</sup> See Dilworth, "Coldingham Priory", 121-125.



ecclesiastical hierarchy advanced supplications to the Penitentiary. It is noticeable, however, that there are relatively few supplications from senior clerics. Instead, the vast majority of Penitentiary supplications came from junior and, probably, young clergymen.

Of the senior clerics who did receive grace, the majority requested licence. Four received licence to grant marriage dispensation to couples. These included Gavin Dunbar, archbishop of Glasgow, Farquhar Maclean, bishop of the Isles and abbot of Iona, Robert Reid, abbot of Kinloss, and John Dingwall, archdeacon of Caithness, chancellor of Aberdeen and provost of Trinity.<sup>26</sup> Three abbots, Thomas Kerr of Kelso, Robert Cairncross of Holyrood and Alexander Hamilton of Kilwinning requested licence to grant lands through feu-ferm.<sup>27</sup> Two abbots, Archibald Crawford of Holyrood and Richard Guthrie of Arbroath requested licence (in 1470 and 1471 respectively) to eat the meat of warm blooded animals during prescribed times of fasting because they were old and infirm.<sup>28</sup> Three supplicants, Richard Robson, abbot of Kelso, Alexander Sutherland, archdeacon of Caithness, and Margaret

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<sup>26</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 73, fol. 1795r-1796v. On Dunbar's career, see *Fasti*, 193-194; For Maclean, see ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 89, fol. 383r-384r., ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 99, 339v; Mark Dilworth, "Iona Abbey and the Reformation", *Scottish Gaelic Studies*, 13 (1971), 77-109; *Fasti*, 265-266, and *The Heads of Religious Houses in Scotland from Twelfth to Sixteenth Centuries*, N. F. Shead and D.E.R. Watt, eds., (Scottish Record Society, 2001), 113. For Reid, see ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 88, fol. 280r-281v; *Fasti*, 302; *Heads of Religious Houses*, 133-134. For Dingwall, see ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 73, fol. 1865v-1866v, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 80, fol. 97v-99r; *Fasti*, 18, 96, 466.

<sup>27</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 72, fol. 753v-754r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 87, 131r-131v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., 87, 645r-646r.

<sup>28</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., 18, 138v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., 19, 107v.

Pringle, prioress of Coldstream, applied for licence to choose a personal confessor.<sup>29</sup>

Relatively few senior clerics applied to the Penitentiary for absolution. Two – Laurence Piot, archdeacon of Aberdeen, and Richard Robson – were absolved from perjury in 1457.<sup>30</sup> Andrew Pictoris, bishop of Orkney, was absolved in 1480 for failing to pay the common services to the Camera. Pictoris's petition indicated that he had entrusted the payment to the Florentine merchant Ghiucius Jacobi, who, however, never delivered the dues because his ship sank, and he, along with his crew, perished. The Camera, perhaps unaware of the disaster, excommunicated Pictoris. His request does not, however, state when the sentence was imposed, or how Pictoris was alerted to the decision. It is possible that the Camera may have ordered a papal judge delegate or a local judge *in partibus* to expedite the sentence.<sup>31</sup> Other senior clerics who applied for absolution included Robert Shaw, abbot of Paisley, who was absolved from excommunication, and George Boyce, abbot of Arbroath, who twice was granted this form of grace.<sup>32</sup> In 1480, he was absolved from irregular promotion, having been ordained to holy orders (without dispensation) while still a minor. One year later, Boyce, along with his brother Patrick, was absolved from simony, having paid

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<sup>29</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 6, fol. 33v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 6, fol. 36r. On Sutherland's career, see *Fasti*, 84, 86, 448-449; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 23, fol. 269v.

<sup>30</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 5, fol. 287v. On Piot's career, see *Fasti*, 26; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 5, 252v-253r.

<sup>31</sup> For Pictoris, see ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 30, fol. 4r. Pictoris was provided to the see of Orkney on 12 February 1477. Cameron, *Apostolic Camera*, 73; *Fasti*, 328; J. Dowden, *The Bishops of Scotland*, (Glasgow, 1912), 262. Pictoris was originally from the diocese of Meissen in Saxony. On this, see Brian Smith, "In the tracks of bishop Andrew Pictoris of Orkney and Henry Phankouth, archdeacon of Shetland", *Innes Review* 40 (1989), 91-105.

<sup>32</sup> For Schaw, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 73, fol. 609v-610r, and Heads of Religious Houses, 170-171.

Stephen Angus, the treasurer of Brechin, £12 Scots to resign his office in favour of Patrick.<sup>33</sup>

As Appendix Two shows, there were substantively more requests from subordinate clerics and candidates for holy orders. The majority, among both groups, applied for grace because they were irregular, thus rendering them ineligible to continue in their pastoral duties or to be ordained to holy office. They were affected by one of two types of irregularity. Irregularity *ex defectu* (on the basis of a defect) was caused by impediments, such as illegitimacy, disability or minority.<sup>34</sup> This affected the overwhelming majority of Scottish candidates for holy orders. The second type, irregularity *ex delicto*, was incurred by violating canon law.<sup>35</sup> This type of irregularity affected the majority of ordained clerics who approached the Penitentiary. They required both absolution and dispensation to return to office and pastoral duties.

The majority of ordained secular clerics, 304 in total, identified themselves as priests, while seventy-eight identified themselves as secular canons. In total, 104 priests and two canons had committed murder or violent acts. A typical petition was that from John Greenlaw, the perpetual chaplain of the altar of St Catherine in the parish church of Haddington (d. St Andrews). Greenlaw claimed that he had been attacked by a fellow priest Patrick Bell, and his brother, John, who assaulted him in the church and stabbed him. Greenlaw fought back

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<sup>33</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 29, fol. 213r, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 31, 143r-143v. On Boyee, see *Heads of Religious Houses*, 7. On Stephen Angus, see Alexander Stephen, "Medieval Scottish contacts with Bruges", in Terry Brotherstone and David Ditchburn, eds., *Freedom and Authority: Scotland, c. 1050-c.1650* (East Linton, 2000), 93-108.

<sup>34</sup> D. 24, c. 5, D. 24, c. 7.; X 1.11. 1-17 "De Temporibus Ordinationum et Qualitatie Ordinandorum", X 1.14. 1-15, "De Aetate et Qualitate et Ordine Praeficiendorum"; VI 1.9. 1-4, "De Temporibus Ordinationum et Qualitate Ordinandorum"; Clem. 1. 6. 1-3, "De Aetate et Qualitate et Ordine Praeficiendorum". On irregularitas ex defectu, see Willibald Plösch, *Geschichte de Kirkenrechtes*, (Vienna, 1960-1962), i, 290-299.

<sup>35</sup> X 1.11.4, X 1.11.17; Plösch, *Geschichte de Kirkenrechtes*, i, 290-299.

with a small knife, wounding Patrick, who died from the injuries sometime later.<sup>36</sup> Of those who committed violent acts, only twenty applied for, and received, declarations of innocence. While most of these supplicants indicated that they had committed murder in self-defence, others did offer other reasons for perpetrating violence. For instance, David Stewart, a priest from Glasgow, related that he had committed murder “while in a momentary state of madness”, another common reason given (by Penitentiary supplicants) for committing violent acts.<sup>37</sup> He stated that “being demented in a mental fury and invaded by insanity” he exchanged contumacious words with a fellow priest Robert Walter (d. Glasgow) during a fight in the grounds of an unnamed church.<sup>38</sup> Stewart became enraged, stabbing Walter in the chest and arms numerous times, from which he died instantly. The incident caused such outrage that the archbishop of Glasgow summoned Stewart before him personally, suspending and depriving Stewart from office. His request for declaration was granted in July 1532.

While violent crimes predominate, other violations were admitted by Scottish Penitentiary supplicants. Thirty-nine had been ordained without dispensation from minority (of age), while thirty-five had been ordained without dispensation from illegitimacy. Twenty-one were guilty of perjury (most having failed to fulfil an oath relating to a specific benefice), while nineteen were guilty of simony. Thirteen had been censured with special excommunication, a form of excommunication that was pronounced against clerics who persisted in disobeying the rules of the ordinary. It was most commonly applied against clergy who were contumacious, and against those who failed to

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<sup>36</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 72, fol. 590v-591v. Violence committed in the sanctuary of a church was a form of sacrilege. John Bell, therefore, should have received absolution and dispensation for his crime, as should have Greenlaw. Bell is not found in the Penitentiary registers. Nor is he found in other Vatican registers.

<sup>37</sup> For further details of the reasons given by supplicants, see Salonen, *Well of Grace*, 133.

<sup>38</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 79, fol. 4v-5r.



pay debts, or refused to abandon concubines, despite consistent reprimands and warnings from the ordinary.<sup>39</sup> In many instances, conflict was so prolonged that the local authorities were unwilling to absolve those that they had excommunicated.<sup>40</sup> Thus supplicants turned to the Penitentiary for absolution, as did William Gordon, a prebend of the collegiate church of St Mary of the Rock (d. St Andrews) who had failed to pay a debt to an unnamed priest. He was censured by the official of St Andrews, after which he petitioned the Penitentiary for absolution and dispensation, which was granted on 2 January 1541.<sup>41</sup> A further twelve supplicants (besides Gordon) had failed to pay a debt (incurred in most instances as a result of litigation over a specific benefice), yet these supplications were not censured with special excommunication.

Other crimes were, however, rare among Scottish Penitentiary supplications. Only one supplicant, Thomas Mackay, vicar of Killoch in the diocese of Ross, who received absolution in 1487, had celebrated mass during an interdict which had been placed upon the church by the bishop.<sup>42</sup> Thomas Sinclair, a priest from Moray, was the only supplicant who applied for absolution from sacrilege. He had been excommunicated by the bishop of Moray, having plundered the residence of the bishop of Moray, stealing various relics and other possessions belonging to the chapter.<sup>43</sup>

Although the vast majority of ordained Scottish clerics applied to the Penitentiary for violations against canon law, some did petition for dispensation and/or licence. Forty-six priests and ten canons received *de uberiori* dispensation. This form of grace was granted to illegitimate clerics – the vast majority of whom had already been ordained – who

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<sup>39</sup> Salonen, *Well of Grace*, 150-151, 171.

<sup>40</sup> Salonen, *Well of Grace*, 171.

<sup>41</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 105, fol. 266r-266v.

<sup>42</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 36, fol. 187r.

<sup>43</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 5, fol. 218v.

desired to hold a second, or even third benefice, with pastoral care.<sup>44</sup> The majority of Scottish supplicants (and their European contemporaries) who requested this type of dispensation indicated in their supplications that they could not financially sustain themselves with the revenues of just one benefice. Typical petitions included that from Adam Whitehead, a priest from Glasgow, who, in a petition dated 1477, related that although he had been collated to one benefice with pastoral care (unnamed), he required a second in order to sustain himself financially.<sup>45</sup> Requests for *de uberiori* dispensation normally include descriptions of a supplicant's impecunity. Canonical stipulations decreed that clerics could (with dispensation) commit pluralism if they were impoverished, or could not sustain themselves with the incomes earned from a single benefice.<sup>46</sup> Clerics who desired dispensation in such instances were required to prove financial hardship in order to receive grace.<sup>47</sup>

Many supplicants who applied to the Penitentiary for this type of dispensation were perhaps honest in their protestations of poverty. Nevertheless, some Scottish recipients were by no means destitute, given the benefices held. Many, moreover, became career pluralists attaining (or at least applying for) the rights of provision to two (or three) benefices after receiving dispensation. For example, in 1452 Alexander Preston, a priest from the diocese of St Andrews, was granted *de uberiori* dispensation. In that same year, he was provided to the parish church at Kirkpatrick (d. Glasgow) and the parish church of

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<sup>44</sup> Ludwig Schmugge, *Kirche, Kinder, Karrieren: Päpstliche Dispense von der unehelichen Geburt im Spätmittelalter* (Zürich, 1995), 161-162.

<sup>45</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 25, fol. 164r.

<sup>46</sup> The regulations concerning pluralism were promulgated in Canon 14 of the Third Lateran Council (1179) and Canon 29 of the Fourth Lateran Council (1215). See X 3.5.4, 28.

<sup>47</sup> Kenneth Pennington, "The Canonists and Pluralism in the Thirteenth-Century", *Speculum*, 51 (1976), 35-48.

Ednam (d. St Andrews), benefices which earned more than £40 Scots per annum.<sup>48</sup> In 1460, Preston was collated as treasurer of Aberdeen.<sup>49</sup>

Thirty-nine priests and seven canons were granted licence to choose a personal confessor. Most of these supplicants are found in possession of profitable emoluments and/or promoted posts, either before or after receiving licence. For example, James Lindsay, a clerk from the diocese of Brechin, who was granted licence in 1456, was promoted as precentor of Brechin in 1459.<sup>50</sup> Between 1459 and 1461, he held the canonry and prebendary of Cruden in the church of Aberdeen.<sup>51</sup> Gavin Hamilton, provost of Bothwell (d. Glasgow), received similar licence in 1457.<sup>52</sup> He held the prebendary of Fearn (d. Dunkeld), and was promoted as subdeacon of Dunkeld, before leaving to study at an unknown university in 1462. He died in 1465, and presumably did not complete his studies.<sup>53</sup> Supplications such as these suggest that prominent clergy were more likely to request these licences than less affluent clerics.<sup>54</sup> This is also suggested by similar requests that are recorded in the Registers of Supplications.<sup>55</sup> The majority of Scots who received this type of licence from the Chancery or Datary are also found in possession of well-paying benefices. For example in 1503, the Datary granted licence to John Shearer, archdeacon of Ross (who petitioned on behalf of Robert Shaw, pensioner of Paisley; his brother, George Shaw,

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<sup>48</sup> *Calendar of Scottish Supplications to Rome [CSSR]*, v, eds. J. Kirk, R.J. Tanner and A.I. Dunlop (Edinburgh, 1997), 126, 134.

<sup>49</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 4, fol. 75; *Fasti*, 21; See also CSSR, v, 293-295.

<sup>50</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 6, fol. 30r.

<sup>51</sup> CSSR, v, 210; *Fasti*, 62.

<sup>52</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 6, fol. 40r.

<sup>53</sup> On Hamilton's career, see *Fasti*, 84, 86, 448-449, and CSSR, v, 36, 99, 102, 263, 302.

<sup>54</sup> See CSSR, iv, eds. A.I. Dunlop and D. MacLauchlan (Glasgow, 1983), 5, 19, 33, 36, 70, 87, 275, 289; CSSR, v, 26, 27, 42, 50, 51, 62, 86, 94, 102, 110, 112, 119, 129, 361-362, 363.

<sup>55</sup> See CSSR, iv, 5, 19, 33, 36, 70, 87, 275, 289; CSSR, v, 26, 27, 42, 50, 51, 62, 86, 94, 102, 110, 112, 119, 129, 361-362, 363.

abbot of Paisley; and Heloise Hume, abbess of North Berwick).<sup>56</sup> Other recipients of such licences from these offices included James Kennedy, bishop of St Andrews and John Wincester, bishop of Moray.

Eighteen clerics (all of whom petitioned in the sixteenth century) received licence to alienate lands through feu-ferm. Some, such as Archibald Boyde, a prebendal canon of Fearn in the church of Dunkeld, became tenants of lands. In 1534, he sought confirmation of a feu-ferm contract, which had been granted by George Crichton, bishop of Dunkeld, who had conceded part of the bishop's *mensa* to Archibald and his successors in the prebendary of Fearn for an annual feu of 10s Scots.<sup>57</sup> While clerics like Boyde became tenants in their own right, others petitioned to feu lands. In 1534, John Elphinstone, a canon of Aberdeen, applied on behalf of David Farlie, abbot of Monymusk (d. Aberdeen, OSA), for licence to feu lands "at a future date".<sup>58</sup> Elphinstone claimed in the supplication that he petitioned on Farlie's behalf, because the abbot was old and infirm, even though Farlie remained abbot for at least twenty years after the Penitentiary granted Elphinstone's petition. It is relevant to note in this context that Elphinstone became Farlie's successor, but only after a long sequence of litigation over the right to possession of the abbey.<sup>59</sup>

Thirteen clerics, all of whom also petitioned during the sixteenth century, received licence (or faculties) to grant dispensation to couples who desired to marry but were related through impediments. The

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<sup>56</sup> The letter from the Datary, granting the request of Shearer, is preserved at Edinburgh, NAS, GD103/2/46/1. For other requests granted by the Chancery or Datary, see *CSSR*, iv, 5, 19, 33, 36, 70, 87, 275, 289; *CSSR*, v, 26, 27, 42, 50, 51, 62, 86, 94, 102, 110, 112, 119, 129, 361-362, 363.

<sup>57</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 83, fol. 76v-77v.

<sup>58</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 86, 53v-54v. The date of this petition (9 December 1534) in *Heads of Religious Houses*, is given as 1550, which is incorrect. See *idem*, 158.

<sup>59</sup> *Heads of Religious Houses*, 158. See also, *Illustrations of the Topography and Antiquities of the Shires of Aberdeen and Banff* (Spalding Club, 1847-1869), iv, 778.



majority of these supplicants identified themselves as archdeacons, deans or canons. At least ten had acquired a Master of Arts from Paris, while an equal number had been awarded the same degree from St Andrews. George Hay, a canon of Aberdeen, who was awarded a Master of Arts from Paris in 1521, was granted licence to grant marriage dispensation in 1538.<sup>60</sup> Two other clerics who received licence – John Houston, canon of Glasgow, and David Christianson, prebendal canon of Lincluden both of whom were from the diocese of Glasgow – had studied together at Paris. In 1536, Christianson was granted licence to dispense couples, as well as illegitimate candidates to orders.<sup>61</sup> Houston petitioned in 1539, along with John Lauder, archdeacon of Teviotdale, for licence to dispense twenty-five couples.<sup>62</sup> Lauder had been awarded a Master of Arts from St Andrews in 1509. Thereafter, he held various benefices, and acted as secretary to Archbishop Forman and Cardinal Beaton. He is believed to have been the compiler of the *St Andrews Formulare*.<sup>63</sup> In addition to their educational background, many of these supplicants could boast familiarity with canon law and papal protocols, having been dispatched to conduct business at the *curia* on behalf of royal or ecclesiastical authorities. For example, John Dingwall, archdeacon of Caithness, chancellor of Aberdeen, and provost of the collegiate church of Trinity in Edinburgh, received three separate licences between 1525 and 1532.<sup>64</sup> Before this, he was royal clerk of Moray during the reign of James IV, and often represented the king in the *curia*.<sup>65</sup> Gilbert Strathauchin was also royal chaplain to King James IV, and was dispatched on a number of occasions to represent his

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<sup>60</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 99, fol. 289v-291r; AUL, MS 958, fol. 324r.

<sup>61</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 100, fol. 86v-88r.

<sup>62</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 93, fol. 223r-224r.

<sup>63</sup> See *St Andrews Formulare*, i, pp. vii-xiv.

<sup>64</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 73, fol. 1841v-1842v, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 75, fol. 307r-308v, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 80, fol. 96v-98r.

<sup>65</sup> *Fasti*, 18, 96, 308, 364. 466; *James IV Letters*, 187.

affairs at the *curia*.<sup>66</sup> In addition, Strathauchin, who had been awarded a Master's from Paris in 1518, was a papal notary and canon of Aberdeen and Moray.<sup>67</sup> Between 1523 and 1528, Strathauchin received three separate licences to grant marriage dispensation, and on one occasion, was granted licence to grant dispensation from illegitimacy.<sup>68</sup>

Forty-nine monks, eighteen mendicants, fifteen regular canons and five nuns applied to the Penitentiary for grace. Of these, fifteen monks, ten mendicants, five canons and three nuns requested dispensation from illegitimacy. Unlike secular clerics, these supplicants did not apply for dispensation in order to be ordained or to hold benefices with pastoral care. Rather, they desired dispensation because they aspired to obtain higher offices in their respective houses, described in petitions as *officia vel dignitates*. While canon law did not require illegitimate men or women to receive a dispensation in order to enter monastic profession, it did order those who desired to be promoted to higher offices to receive dispensation.<sup>69</sup> Of the thirty-three who petitioned, at least two were successful in their objectives. John Turnbull, who at the time of his petition of 1481, was professed at Newbattle (d. St Andrews, O.Cist), was promoted as abbot of Dundrennan (d. Galloway, O.Cist.) in 1485.<sup>70</sup> Marion Farquhar, who received dispensation in 1539, became

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<sup>66</sup> James IV Letters, 18, 44, 46, 62-63, 65-66, 160-161; RMS, iii, 926, 1877.

<sup>67</sup> AUL, MS 958, fol. 312r

<sup>68</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 72, fol. 716v-717v, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 75, fol. 308v-309v, ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 84., vol. 58v-60v. For the request for licence to dispense illegitimate candidates, see ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 74, fol. 604v-605r.

<sup>69</sup> X 1.17.11; X 1.18.5; X 1.17.6, 8-9. X 4.17.1-18; See also Peter Landau, "Das Weihhindernis der Illegitimität in der Geschichte des kanonischen Rechts", in Ludwig Schmugge, ed., *Illegitimität im Spätmittelalter* (Munich, 1994), 41-53, cf. 44-45; Schmugge, *Kirche, Kinder, Karrieren*, 36-38, 73-77; Salonen, *Well of Grace*, 193.

<sup>70</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 30, fol. 132r; *Heads of Religious Houses*, 65.

abbess of Iona in July 1548.<sup>71</sup> She was the illegitimate daughter of Farquhar Maclean, bishop of the Isles and abbot of Iona (d. Sodor, OSB), and an unmarried woman (*de monaco genito et soluta*).<sup>72</sup> The Macleans had long held possession of Iona, and given the prominence of her father, it may be that her promotion was perhaps more the result of political pressure, rather than dispensation from the Penitentiary.<sup>73</sup>

Besides the aforementioned nuns, there were no further supplications from Scottish female religious. There were, for example, no supplications concerning apostasy or violating vows of celibacy, both of which were common sins admitted by other European nuns who applied to the Penitentiary. In fact, only one Scottish supplicant, Alexander Hayt, a monk at Pluscarden, applied for absolution for violating celibacy regulations. In 1455, he had been censured with special excommunication by the bishop for refusing to end his relationship with a concubine.<sup>74</sup> Although his was the only case concerning this crime, the volume of supplications from the sons of illegitimate clerics seeking dispensation to be ordained demonstrate that violating celibacy regulations was not uncommon in later medieval Scotland. Yet it may seem curious that more requests for absolution from this violation are not found in the registers of the Penitentiary or other Vatican Registers. This is not an anomaly for Scotland. As Wolfgang Müller has noted, supplications involving this violation are very rare in the Penitentiary registers. Violating clerical celibacy was one of many sins which could be absolved by episcopal authority.<sup>75</sup> The lack of cases from Scotland, and elsewhere, suggests that these violations may have been dealt with locally, and that only in extreme

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<sup>71</sup> *Heads of Religious Houses*, 116; RSS, iii, 453.

<sup>72</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 100, fol. 540r-540v.

<sup>73</sup> See *Heads of Religious Houses*, 113-115.

<sup>74</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 5, fol. 403v.

<sup>75</sup> McDonald, "The Papal Penitentiary and Ecclesiastical Careers", 20-21, 114-115.

cases did supplicants, such as Alexander Hayt, require grace from the Penitentiary.<sup>76</sup>

Nine religious supplicants – one Dominican, one Franciscan, one Benedictine, two Cluniacs, and three Austin canons – applied to the Penitentiary for absolution from apostasy. In addition, the two Mendicants concerned also requested dispensation to transfer to another order, while the monk, David Cosar of Coldingham, requested dispensation to become a secular cleric and to study at university. All nine supplicants gave the same explanation for absconding: quarrels with their superior or fellow brethren in their respective houses. While eight cases do not reveal the basis of the argument, that of Cosar does. He absconded from Coldingham because his superior, David Hume, had twice refused Cosar's request to leave the priory to pursue university study. Following the first refusal, Cosar applied to the Penitentiary for a study licence, which he was granted in 1516.<sup>77</sup> Cosar presented this to Hume, who prevented him, for a second time, from leaving Coldingham. Cosar then absconded, this time presenting his supplication in person at the *curia*, and in 1519, was granted absolution from apostasy. In addition, his request was accompanied by a plea for dispensation to become a secular cleric and to study at a university.<sup>78</sup>

Three supplicants requested dispensation to transfer to another house or order. While two desired to transfer to an order in Scotland, John Cyris of Newbattle was permitted to transfer to the priory of Weih-Sankt-Peter at Regensburg, Germany.<sup>79</sup> It is perhaps worth noting that the prior of Regensburg at the time of his transfer was John Denys, a former Newbattle monk.<sup>80</sup> Two other monastic supplicants petitioned for *standi extra* licence to leave their monasteries. This type of licence

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<sup>76</sup> Wolfgang Müller, "Pardons for Sexual Misconduct. Ordinary Routine and Papal Intervention in the Late Middle Ages", in Salonen and Krötzl, eds., *The Penitentiary and the Parties*, 171-183.

<sup>77</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 59, fol. 580r-580v.

<sup>78</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 64, fol. 634v-635r

<sup>79</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 62, fol. 3r-3v.

<sup>80</sup> *Heads of Religious Houses*, 244.



permitted a monk or nun to leave his or her house to recover from illness which could not be healed in the cloister. William Veland, a monk at Lindores, was permitted, in 1520, to leave the house in order to recover, as well as to transfer to a Franciscan house, once recovered.<sup>81</sup> John Peter de Lasemo, a Carmelite friar from Ross, received this type of licence in 1538.<sup>82</sup>

Three mendicants and two monks, all of whom petitioned in the sixteenth century, requested declarations to abandon their professions because, as they claimed, they had been forced into a monastic life. In addition, they were granted dispensation to become secular clerics and maintain benefices with pastoral care. Two had been forced by relatives. John Burns, who received grace in 1523, claimed his parents and other relatives had forced him into the monastery of the Holy Virgin in Bruges.<sup>83</sup> John Turnbull, who was granted declaration/dispensation in 1524, had been forced by his parents to enter the Carmelite friary of Tullilum, near Perth.<sup>84</sup> Two supplicants claimed they had been forced to make profession by their religious superiors. Thomas Velcar, who received grace in 1519, had been forced by members of the Conventual Franciscans in Dumfries (d. Glasgow), while Robert Simpson claimed that he had been forced to make profession by the brethren of the Dominican friary at Perth; he received dispensation in October 1532.<sup>85</sup> Only one supplicant, William Machar, from Glasgow, made his profession without the force of others.<sup>86</sup> Instead, he had taken monastic profession out of fear for his life. Machar claimed that in 1513, when he was 23 or thereabouts, the English and Scots were at war, and fearing death or torture, he fled to Lincoln, where he entered the monastery of

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<sup>81</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 64, fol. 21v-22r.

<sup>82</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 96, fol. 561v- 562r.

<sup>83</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 72, fol. 25v-26r.

<sup>84</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 72, fol. 909r-909v.

<sup>85</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 64, fol., 448r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 79, fol. 316r-316v.

<sup>86</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 75, fol. 82r-83r.

St Mary of Swineshead (d. Lincoln, O.Cist.). He was permitted to leave the monastic life and become a secular cleric in January 1527.<sup>87</sup>

The 495 ordained clerics who are found in the Penitentiary registers between 1449 and 1542 make up less than 1% of the total estimated number of clergy in Scotland (between 12,000 and 16,000 during the period analysed).<sup>88</sup> Although the majority of ordained clerics supplicated because they violated canon law, the proportion of clerical miscreants to the overall majority of Scottish clerics is minimal.

Canon law ordered that diocesan authorities were to suspend clerical malefactors from their office and benefice, usually in actions conducted before judicial authorities. Until they received absolution and/or dispensation, clerical miscreants were unsuitable to maintain pastoral care, a consequence of incurring irregularity *ex delicto*.<sup>89</sup> The cases from ordained clergy highlight that Scottish diocesan authorities adhered to these conventions. Numerous supplications from ordained clerics were dispatched to the Penitentiary as a consequence of judicial actions in Scotland. It has been noted that the archbishop of Glasgow suspended David Stewart for killing another priest. Including Stewart, more than one-third of those who committed murder or violence indicated that they had been suspended from pastoral duties by officials or commissaries. Similar circumstances were noted in supplications from clerics who committed simony, or who had received special excommunication for reasons such as debt, concubinage, or celebrating mass despite the rules of the ordinary. Other supplications, which did not indicate explicitly if the suppliant had been sentenced by Scottish ecclesiastical authorities, imply that the Scottish authorities had been involved in actions before the suppliant approached the Penitentiary.

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<sup>87</sup> See the discussion in David Ditchburn, *Scotland and Europe: The Medieval Kingdom and Its Contacts with Christendom, 1214-1560* (East Linton, 2000), 242-244, regarding emigrants in England and Scotland during times of war.

<sup>88</sup> Alexander Grant, *Independence and Nationhood: Scotland 1306-1469* (4th reprint, Edinburgh, 1996), 72-79, 89-90.

<sup>89</sup> C.11 q.3 c.103; X 2. 28.53; X 5.27.3-5, 7. See also Elizabeth Vodola, *Excommunication in the Middle Ages*, (London, 1986), 56-58.

It is thanks to the Penitentiary registers that these ordained clerics have been rescued from obscurity. Apart from a few notable exceptions, the majority of ordained Scottish Penitentiary supplicants are not traced to any specific benefices or high-ranking office. Moreover, the majority do not seem to have attained university qualifications. It is likely, therefore, that these men, particularly those who identified themselves as priests, constitute the rank and file of parish clergy. This is in direct contrast to ordained clerics who are found in the Register of Supplications and Lateran Registers. The majority of supplicants in these registers are found in possession of lucrative emoluments and high-ranking offices. Many, in addition, had attained university qualification.

A significantly larger number of candidates for ordination, 1127 in total, applied to the Penitentiary for grace between 1449 and 1542. Unlike the majority of priests, most of these supplicants applied only for dispensation. The bulk of these men were affected by impediments. While illegitimacy affected the greatest number, some were affected by minority or disability. Other candidates who applied for dispensation were not irregular because of impediments or violations. Twenty required dispensation to be ordained by a foreign bishop, while one David Panter, a fourteen-year-old scholar from the diocese of St Andrews, requested dispensation to be ordained to the four minor orders on the same day.<sup>90</sup>

Men who identified themselves as scholars make up the bulk of Scottish candidates in the Penitentiary registers. The term “scholar” is ambiguous. It was used to identify both a young boy receiving tuition at a cathedral grammar school as well as a young man matriculated at a university. According to Ludwig Schmugge, the term, in the context of

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<sup>90</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 61, fol. 346r-346v. X 1.11.13, 15 permitted clerics to be ordained to more than one order at the same time. There were a number of Scots who received dispensation from the Datary to be ordained to all seven orders in the *curia*. See *CSSR*, v, 148-149, 177, 202, 212, 222, 263, 315, 345-346, 371.

the Penitentiary registers, identified young men who had not yet joined the clergy.<sup>91</sup>

Relatively few Scottish scholars applied for absolution from violations of canon law. Only sixteen, all of whom were guilty of violent acts, applied for this form of grace. While fifteen applied for absolution and dispensation, one applied for declaration of innocence. In a supplication recorded in February 1527, Nicholas Smith, a scholar from the diocese of Glasgow, related that he and his father, George, were travelling to the village of Ancrum, north of the town of Jedburgh, when a gang of thieves came upon them and tried to steal their belongings.<sup>92</sup> A fight ensued, and Nicholas killed one of his assailants. Another assailant began to attack Smith's father, and fearing for his life, the son attacked the second aggressor, killing him.

The majority of Scottish scholars in the Penitentiary registers (615) were granted dispensation from illegitimacy. In total, 597 were granted *de defectu natalium* dispensation, which permitted recipients to be ordained to holy orders and retain one benefice, and was the most common type of illegitimacy dispensation granted by the Penitentiary.<sup>93</sup> Eighteen scholars received *de uberiori* dispensation, while only one, John Cairncross, (d. St Andrews) applied for, and received, a *de ubi pater* dispensation.<sup>94</sup> This type of dispensation allowed him to be ordained to holy orders and serve in the office which had previously been held by his father.<sup>95</sup>

Ten scholars requested dispensation from minority, while nine were affected by physical disability. The majority of the latter were blind in their right eye. Twelve scholars requested dispensation to be ordained by a foreign bishop. They applied for this in recognition of canonical stipulations which asserted that candidates were only to be ordained by

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<sup>91</sup> Schmugge, *Kirche, Kinder, Karrieren*, 123-124.

<sup>92</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 75, fol. 214r-214v.

<sup>93</sup> Schmugge, *Kirche, Kinder, Karrieren*, 161-162.

<sup>94</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 101, fol. 323r-323v.

<sup>95</sup> Schmugge, *Kirche, Kinder, Karrieren*, 33-63, 162-165, and Schmugge, Hersperger, Wiggenhauser, *Die Supplikenregister*, 197.



their ordinary.<sup>96</sup> Like James Fraser, a scholar at Poitiers, some of the Scots among this group were matriculated at universities.<sup>97</sup> However, other scholars, such as William John who, in 1474, emigrated to the diocese of Trent, can not be traced in matriculation records. They, presumably, migrated abroad for remuneration.<sup>98</sup>

It is probable that the vast majority of Scottish scholars were training, or had just completed training, for the priesthood. It is likely too that the vast majority did not go on to receive higher education. Most cannot be traced in the matriculation records of continental, English or Scottish universities. However, sixteen were matriculated at universities at the time they applied for grace.<sup>99</sup> These included the Aberdonian, John Henry, who was dispensed in 1482.<sup>100</sup> His supplication indicated he had been awarded a Master's. It is certain that he attained a licentiate from Paris in 1480, though it can not be shown when or where he attained the Master's.<sup>101</sup> A further two scholars were also matriculated at universities in France.<sup>102</sup> The noted James Fraser was matriculated at Poitiers. In addition to dispensation from illegitimacy, he applied for dispensation to retain the fruits of a benefice, despite his absence, while he completed his studies.<sup>103</sup> This request is probably an indication that he, like numerous other Scottish

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<sup>96</sup> X 1.11.5; VI 1.9.1-4.

<sup>97</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol.7, fol. 370v; See Watt, "University Graduates in Scottish Benefices", 77-88.

<sup>98</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 22, fol. 162v.

<sup>99</sup> These figures are meagre in comparison to the number of Scots in the Registers of Supplications who indicated that they had achieved university qualification. See Eila Williamson, "Scottish Benefices and Clergy", 78-80, 92-93, 97, 123-124, 141, 144-152, and Watt, "University Graduates in Scottish Benefices", 77-88.

<sup>100</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 31, fol. 208r.

<sup>101</sup> AUL, MS 958, fol. 21r.

<sup>102</sup> See for example Watt, "University Graduates in Scottish Benefices", 77-88; Annie Dunlop, "Scottish Student Life in the Fifteenth Century", *Scottish Historical Review*, 27 (1947), 62-65;

<sup>103</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 7, fol. 370v.

students, intended to use the parochial revenues to finance his studies.<sup>104</sup> George Storiswood, a scholar from St Andrews, requested *de defectu natalium* dispensation, which he was granted on 2 June 1456.<sup>105</sup> He is found among a list of students matriculated at Paris in 1457.<sup>106</sup> Another scholar from St Andrews, George Hume, was also matriculated at Paris. He indicated in his petition of 1489 that he was living and studying at Paris.<sup>107</sup>

Of the scholars who had attained qualifications, ten can be traced to a promoted post after receiving dispensation and completing their studies. These included men such as David Abercrombie, a scholar from the diocese of Dunkeld, and William Gordon, a scholar from Moray. Abercrombie attained a Master of Arts degree from St Andrews.<sup>108</sup> In 1489, he was collated as subdean of Dunkeld, and sometime thereafter was appointed commissary general for the whole diocese.<sup>109</sup> Gordon, who in 1523 was granted both a *de defectu natalium* and *de uberiori* dispensation, was promoted as archdeacon of Caithness in 1529.<sup>110</sup>

Clerks in minor orders comprise the second largest group of Scottish candidates who received grace from the Penitentiary. As with scholars, illegitimacy was the most common reason for which these men applied for dispensation. The majority, 302, were granted *de defectu natalium* dispensation, while twenty received *de uberiori* dispensation. Twenty clerks applied for dispensation from minority,

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<sup>104</sup> For examples of Scottish clerics who financed their education through parochial revenues, see Watt, *Scottish Graduates*, 65-66, 139, 143.

<sup>105</sup> AUL, MS 958, fol. 19r.

<sup>106</sup> AUL, MS 958, fol. 19r.

<sup>107</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 39, fol. 399r.

<sup>108</sup> He was a determinant at St Andrews in 1475 and obtained his licentiate in 1477, and a Master's in 1481. See *Acta Facultatis Artium Universitatis Sancti Andree*, ed., A.I. Dunlop (Scottish History Society, 1964), i, 195, 198, 213.

<sup>109</sup> *Rentale Dunkeldense* (Scottish History Society, 1915), 304, 324, 338; *Fasti*, 152, 161-163.

<sup>110</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 69, fol. 17r; *Fasti*, 96.

whereas a meagre six were affected by disability. Seven, on the other hand, requested dispensation to be ordained by a foreign bishop. Meanwhile, thirteen other clerks received licence. Three out of the thirteen were permitted to choose a personal confessor, while ten received licence to extend their pastoral authority. Two requested these to grant dispensation to couples who desired to marry, while eight requested licence to grant lands through feu-ferm.

Nineteen clerics applied to the Penitentiary because they had violated canon law. Seven were guilty of violent acts. Twelve had committed bigamy, marrying women who were not virgins. While clerks in minor orders were allowed to marry, canon law decreed they were to marry women who were virgins.<sup>111</sup> Moreover, canonical conventions required them to obtain licence in order to remain married and continue in their office.<sup>112</sup> Those who married without licence were irregular *ex delicto* and required dispensation to return to office.<sup>113</sup> Those who did not risked losing the benefit of clergy, as decreed by canon 15 of the Second Council of Lyon (1274). If they were brought before a secular court, charged with murder or a felony that carried the death penalty, they could be tried as a layman and, if convicted, could be sentenced to death.<sup>114</sup>

Canon law recognised two types of bigamy.<sup>115</sup> Constructive or interpretive bigamy, as defined by Gratian, was incurred by marrying a

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<sup>111</sup> X 3.3.1-10; X 4.6.1-7. As a result of canons seven and twenty-one of the First Lateran Council (1123), ordination to the three higher orders (subdeacon, deacon and priest) created a diriment impediment to marriage, prohibiting clerics in holy orders from marrying.

<sup>112</sup> Brundage, *Law, Sex, and Christian Society*, 405-407.

<sup>113</sup> Sixtus IV reserved the power to dispense men who had committed bigamy to the authority of the pope, or his delegate, including the Penitentiary. Göller, *Pius V*, ii, 4-8.

<sup>114</sup> C.R. Cheney, "The Punishment of Felonious Clerks", *The English Historical Review*, 51 (1937), 217-218.

<sup>115</sup> X 1.21.1-7.

widow or divorcee, or if one's wife committed adultery.<sup>116</sup> Simultaneous or true bigamy, as defined by Hostiensis, was incurred by marrying two women at the same time.<sup>117</sup> Eight Scottish clerks were guilty of constructive bigamy, having married widows, while four were guilty of true bigamy. Of these, two, in addition to applying for dispensation, also requested dispensation to remain married to their spouse to whom they were related. David Murray and his wife, the widow Agnes Guthrie, petitioned the Penitentiary for absolution and dispensation for knowingly contracting and consummating their marriage despite being related in the third degree of consanguinity.<sup>118</sup> David Strathauchin (who was guilty of simultaneous bigamy) and his wife Margaret Gordon, dispatched a petition, granted in 1531, requesting dispensation to remain married, despite being related in the fourth degree of consanguinity. They also requested dispensation to legitimise their children.<sup>119</sup>

A number of Scottish clerks who are found in the Penitentiary registers can also be traced in promoted post subsequent to receiving dispensation. For example, William Lindesay, from the diocese of Dunkeld, who received his Licentiate in Arts from St Andrews in 1451, was the recipient of both a *de defectu natalium* and *de uberiori*

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<sup>116</sup> D.26 c.2,3,5; D.32 c.12; D.33 c.1,2,17; D. 34, c. 7, 13, 15, 18; D.51 c.5. X 1.21.1, 3, 7. Rufinus was the first decretist to class constructive bigamy as an irregularity barring candidates to orders without dispensation. See idem, *Summa ad* D.25 d.p.c.3, cited in Heinrich Singer ed., *Summa Decretorum* (Aalen, 1963), 60. On constructive bigamy see Brundage, *Law, Sex, and Christian Society*, 252-253, 318-319, 342-343, 402-407, 479; Josef Trümmer, "Bigamie als Irregularitätsgrund nach der Lehre der alten Kanonistik", in Hans Lentze and Inge Gampl, eds., *Speculum iuris et ecclesiarum: Festschrift für Willibald M. Plöck zum 60. Geburtstag* (Vienna, 1967), 393-409.

<sup>117</sup> Hostiensis, *Summa aurea*, lib.1, tit. *De Bigamis* § 3, and lib.4, tit. *De sponsa duorum* § 5, cited in Brundage, *Law, Sex, and Christian Society*, 477-478, 540.

<sup>118</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 77, fol. 395r-3950v.

<sup>119</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 77, fol. 401r-401v.



dispensation in 1452 and 1453 respectively.<sup>120</sup> After receiving dispensation from the Penitentiary, he was ordained as a priest, and in 1452 was collated to the canonry of Mortlach (d. Aberdeen).<sup>121</sup> In 1460, he became the precentor of Aberdeen, which he resigned on exchange with a relative, James Lindesay, between 1460 and 1461.<sup>122</sup> Other examples include John Lauder, from Argyll, who became archdeacon of Argyll, an office he held from 1467 until his death sometime between 1473 and 1475.<sup>123</sup>

Acolytes comprise the last group of Scottish candidates. The majority, as with scholars and clerks, were illegitimate. Of these, forty were granted *de defectu natalium* dispensation and one, Thomas de Botary, from Moray, was granted *de uberiori* dispensation.<sup>124</sup> Thirteen acolytes committed acts of violence, while one, William Stewart (d. Dunkeld) petitioned for declaration. His petition did not concern violence, but was, instead, related to marriage. As he related, he had been engaged to a woman *per verbo de futuro*. They had agreed to marry, provided that both remained virgins before the ceremony. His fiancée, however, broke the contract when she became involved with and 'knew another man carnally'. William, upon learning this, petitioned the Penitentiary for declaration to annul the contract, so that he would in no way be prevented from being ordained to major orders. He received declaration in March 1536.<sup>125</sup>

The cases from candidates serve to highlight a number of facets of clerical life in later medieval Scotland. Most importantly, they provide evidence of clerical recruitment, training and ordination. The vast majority of these supplicants were scholars who probably had received training in the grammar schools. These schools appear to have been the

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<sup>120</sup> Dunlop, ed., *Acta Facultatis Artium Universitatis Sancti Andree*, i, 86-87; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 4, fol. 68r, 74r.

<sup>121</sup> *CSSR*, v, 126.

<sup>122</sup> *Fasti*, 14.

<sup>123</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 4, fol. 185v; *Fasti*, 47-48.

<sup>124</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 7, fol. 351v.

<sup>125</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 93, fol. 121r-123r.

initial recruiting grounds for Scottish clerics. It seems, too, that the training Scots received in the grammar schools suited the church's purpose. Clerics who lacked sufficient training were obliged by canon law to receive dispensation before ordination, or were to be suspended from pastoral duties, until they received adequate tuition.<sup>126</sup> That there are no such requests from Scots in the registers of the Penitentiary – the Registers of Supplications or Lateran Registers – may be an indication that clerics were suitably trained. Unlike the vast majority of ordained clerics who appear in the Penitentiary registers, a substantial number of scholars and clerks can be traced subsequently to a promoted post. Impediments clearly did not stop clerics from receiving preferment, but university qualifications, rather than dispensation from the Penitentiary, were perhaps the key to their advancement.

Apart from this, the stream of requests from candidates also provides evidence regarding the process of ordination in later medieval Scotland. The frequency of requests for dispensation from impediments, illegitimacy in particular, suggests that ordinations were held regularly throughout Scotland. This, in theory, is reinforced by the fact that there are no requests for dispensation to be ordained outside the times set for ordination. These findings suggest, too, that bishops were usually present in their dioceses to carry out ordinations, or that suffragan bishops were appointed in their place to carry out this important role. Moreover, while some supplicants applied for dispensation to be ordained by a foreign bishop, none requested dispensation to be ordained by a Scottish bishop of another diocese. Clerical migrants aside, it seems probable that most Scottish clerics were ordained in their home diocese.

### **The Provenance and Time Frame of Scottish Supplications**

Apart from the status and types of supplications each group dispatched, Scottish requests in the Penitentiary registers provide further evidence of equal importance. For instance, Penitentiary petitions always indicate

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<sup>126</sup> X 1.11.1-17; X 1.14.4.

the diocese in which the supplicant resided. This information makes it possible to compare the pattern of cases from one diocese to another. Apart from that, it is also possible to make determinations regarding variations in the application of canon law in a particular region, and the frequency of contact between individual dioceses and the papal *curia*.

Appendix Three shows the number of supplicants in each category from each Scottish diocese. It can be seen that the majority were from the dioceses of St Andrews, Glasgow and Aberdeen. Demography provides the most obvious answer for this. These three dioceses were almost certainly the most densely populated dioceses. So, naturally, one would expect that a larger number of cases would derive from these three dioceses. Detailed population statistics are not available for the medieval period. Nevertheless, tax information can be used to provide some approximate indication of population density. Appendix Four shows the percentage of taxes on spiritualities which were paid by each diocese. As can be seen, the percentage of clerical supplicants from each diocese is similar to the percentage of tax that was paid by each diocese.

The discrepancy between the cases from each diocese may, however, also be related to the application of canon law in each diocese. That the majority of cases emanate from St Andrews, Glasgow and Aberdeen may be an indication that diocesan authorities in these dioceses were more pro-active in enforcing canonical regulations. Given that most of the bishops had studied canon law, it is perhaps not surprising that they would have endeavoured to enforce regulations upon supplicants. It was not, however, just the episcopal heads of the dioceses who could boast familiarity with canon law. Many of their senior aids did too. And it is perhaps also significant that St Andrews, Glasgow and Aberdeen housed universities at which canon law was taught.

Nevertheless, many of the senior clerics in other dioceses had also attained university qualifications in canon law. But, with the exception of illegitimacy, cases involving other impediments and crimes are rare among the requests from Moray, Ross, Caithness and other remote

dioceses (see Appendix Nine). Papal legates and collectors may have been present in these dioceses to absolve or dispense clerics, thereby reducing the need for some to apply to the *curia* for grace. However, evidence of such activity does not exist for the period under discussion. It is more likely that the lack of cases from remote dioceses, particularly in the north and west of Scotland, reflects inadequacies in the policing and judicial functions of the episcopacy, in terrain that was often remote from episcopal authority.

There could also be a further explanation for the frequency of cases from the three largest dioceses. Numerous supplications from St Andrews, Glasgow and Aberdeen are registered on the same date and folio, which suggests that petitions were dispatched together, and possibly, were delivered *en masse* by a third party.<sup>127</sup> It is indicative, moreover, that a sophisticated system was established to dispatch numerous supplications simultaneously to enable a number of candidates to receive dispensation. In this context, it is perhaps relevant to note not only that the major Scottish ports were located in the

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<sup>127</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 6, fol. 62v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 7, fol. 328r, 330r, 336r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 20, ASV, Penitenzieria Ap., Reg. Matrim. et Div., fol. 232v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 21, fol. 189r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 22, fol. 208r, 209r, 212r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 23, fol. 254v, 261r, 264r, 266r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 24, fol. 229r, 244v, 245r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 25, fol. 179r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 25, fol. 182v, 185v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 29, fol. 239r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 30, fol. 135r, 136v, 137v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 32, fol. 233v-234r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 33, fol. 2512r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 35, fol. 226v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 36, fol. 340r, 341v, 347v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 38, fol. 397v-401r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 60, fol. 376v; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 69, fol. 414r; ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 71, fol. 357r, 358v.



dioceses of St Andrews and Aberdeen, but also that the bishops of these dioceses possessed their own ships, which were occasionally chartered by supplicants travelling to the *curia*.<sup>128</sup>

The time frame of Scottish supplications also provides evidence of equal importance. The distribution of Scottish supplications to the Penitentiary fluctuated on an annual basis, with some years witnessing the dispatch of a large number of supplications, and others a decline. In addition, certain types of cases were more commonly dispatched during certain periods than others (see Appendix Nine). To highlight this phenomenon, three specific periods, each important to Scottish history, will be used as a case study. The first period to be analysed is that from 1449 to 1460, which coincides with the reign of James II (1437-1460). After 1449 Scotland had resumed contacts with the papacy, following the deterioration of relations during the Schism and conciliar periods. The second period, from 1472 to 1492, was chosen because St Andrews and Glasgow were granted metropolitan status in 1472 and 1492 respectively.<sup>129</sup> The final period investigated is that from 1513 to 1542, which corresponds to the reign of King James V. A fundamental change within the patterns and content of Scottish clerical cases occurs during this period. Moreover, it witnesses an overall decline in the annual distribution of cases.

Appendices Five, Six, Seven and Eight demonstrate the overall distribution of Scottish cases during these periods. It is noticeable that more supplications were advanced in some years than in others. On average seventeen supplications were dispatched to the Penitentiary by Scottish clerics in each year between 1449 and 1460.<sup>130</sup> This rose slightly during the period from 1472 to 1492, with an average of twenty

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<sup>128</sup> See Ditchburn, *Scotland and Europe*, 11-24.

<sup>129</sup> For this, see Macfarlane, "The Primacy of the Scottish Church", 111-129.

<sup>130</sup> When the supplications from laity (seventy-four) are factored in, the annual average rises to twenty-two supplications per annum.

petitions per annum.<sup>131</sup> Between 1513 and 1542 the average decreased substantially, to only eight petitions per annum.<sup>132</sup>

Appendices Five and Eight demonstrate that of the three periods under consideration the smallest number of supplications was dispatched between 1449 and 1460. The figures for this period are incomplete since the register corresponding to the first year of Pius II's pontificate (1458) is missing.<sup>133</sup> If the trends for this missing year correspond to those for the rest of the period, it remains the case that the smallest number of petitions stems from 1449 to 1460. This may be the result of various factors. Scotland's relations with the *curia* during this period remained frosty. Scotland had supported Benedict XIII and the Avignon papacy during the Schism, their allegiance to the pope continuing until late 1417, and relatively few senior Scottish clerics participated in, or supported, the Council of Constance.<sup>134</sup> Furthermore, Scottish clergymen who attended the Council of Basel were supporters of conciliar ideology, and many helped to elect the anti-pope Felix V.<sup>135</sup> Besides tense relations with the papacy, the rekindling of Anglo-Scottish conflict in 1450 may have impeded supplicants from applying for grace.<sup>136</sup> Given the intermittent ship departures from Scottish ports, many Scots had traditionally travelled on land to London to board vessels to the continent.<sup>137</sup> The resumption of conflict may have impeded those who would normally have taken this route, not least

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<sup>131</sup> When the supplications from laity (451) are factored in, the annual average rises to forty supplications per annum.

<sup>132</sup> When the supplications from laity (266) are factored in, the average rises to seventeen per annum.

<sup>133</sup> Despite this, several cases that were considered in 1458 have been preserved, as is noticeable in Table 10. Salonen, *Well of Grace*, 24.

<sup>134</sup> Grant, *Independence and Nationhood*, 92.

<sup>135</sup> J.H. Burns, *Scottish Churchmen and the Council of Basle* (Glasgow, 1962), 60-87.

<sup>136</sup> Ranald Nicholson, *The Later Middle Ages* (Edinburgh, fifth reprint, 1997), 345-348, 353-383.

<sup>137</sup> Ditchburn, *Scotland and Europe*, 11-24.

since safe conducts may have been difficult to procure. Both factors may explain why, during this period, so few requests were presented in person.

The nature of petitions submitted during this period also suggests problems in direct communication with the *curia*. During this period only nine petitions – all of which concerned murder – were submitted by supplicants personally.<sup>138</sup> By contrast, those who petitioned regarding illegitimacy did not have to present themselves personally in Rome. This may perhaps explain why the overwhelming majority of Scottish supplications submitted during this period (164 in total) concerned illegitimacy. At the same time, many illegitimacy supplications during this period appear to have been delivered in bulk. For instance, between May and June 1450, nine illegitimacy supplications from St Andrews, and three from Glasgow, were registered on the same dates and folios.<sup>139</sup> They may have been delivered by Matthew Ellen, a cleric who represented the interests of Richard, abbot of Dunfermline (d. St Andrews, OSB) in the *curia* between May and July 1450.<sup>140</sup>

As Appendices Six and Eight demonstrate, the largest group of Scottish supplications that were dispatched to the Penitentiary can be dated to 1472-92. The increase in Scottish requests is perhaps the result of various factors. Relations with the papacy had become more cordial during the period. Moreover, although Anglo-Scottish conflict was not at a standstill, conflict was less prevalent than during the period from 1449 to 1460. This may explain the slight rise in the number of requests that were submitted by supplicants personally. Nevertheless, it is noticeable from Appendix Six that the bulk of supplications submitted between 1472 and 1492 concerned illegitimacy, and most of these supplications also seem to have been dispatched in bulk by a third party.

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<sup>138</sup> Canon law required clerics who committed serious violations against canon law, such as murder, to present their requests for grace in person at the *curia*. C.17 q.4 c.29; X 5.25.1; X 5.39. 1, 5, 6, 11, 13.

<sup>139</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vol. 4, fol. 35r, 35v, 37r, 41r.

<sup>140</sup> Cameron, *Apostolic Camera*, 324.

The period from 1472 to 1492 was chosen for particular analysis in order to establish whether, despite the appointment of the first Scottish metropolitan, supplications to the Penitentiary increased in similar fashion to the number of petitions that were granted by the Camera or Datary, a trend noted by Cameron and Williamson.<sup>141</sup> The data displayed in Appendices Six and Eight demonstrate that supplications to the Penitentiary during this period did increase. It suggests that the appointment of a Scottish archbishop had little effect on the number of supplications dispatched to the *curia*, the Penitentiary in particular. This is perhaps because the appointment of a metropolitan had no effect on cases that were dispatched to the Penitentiary because the archbishop had no inherent authority to absolve or dispense clerics from matters reserved to the Penitentiary. Although archbishops could acquire authority in these matters by applying to the papacy for licence allowing them to grant absolution and dispensation in reserved cases, neither Archbishop Graham nor Archbishop Scheves endeavoured to do so. While Scheves was granted legatine status, and as such possessed *de facto* authority to grant dispensation from impediments, the volume of Scottish cases in the Penitentiary registers during this period suggest that he rarely exercised his powers, though native evidence to prove this is lacking.

By contrast, evidence from the period from 1513 to 1542 – though fragmentary – does suggest that the archbishops of St Andrews began employing their legatine authority, dispensing a number of supplicants from illegitimacy and marital impediments. Archbishop Forman was particularly active in this respect, personally dispensing several candidates and couples. In addition, he delegated his authority to subordinate clerics, authorising them to grant dispensation to illegitimate candidates and couples affected by impediments. That he delegated his authority suggests that he was overwhelmed by the

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<sup>141</sup> Williamson, "Scottish Clergy and Benefices", 220-237; Cameron, *Apostolic Camera*, 66-84, 170-224, 246-259, 288-299, 325-341.



number of people who chose to seek grace locally, rather than applying to the *curia* for similar grace.<sup>142</sup> Moreover, during the period between 1513 and 1542, other clerics frequently requested licence to grant dispensation from impediments. This increase in applications for licence, and the use of legatine authority, may in part explain the decline in the number of requests for dispensation from illegitimacy and other impediments (as well as the decline in lay requests for dispensation to marry) evident in Appendices Seven, Eight and Nine. Various scholars have argued that senior Scottish clergymen, in the immediate period before the Reformation, endeavoured to bring reform to the Scottish church.<sup>143</sup> The increase in requests for licence may have been part of this effort, to ensure that couples married within the regulations of canon law and to ensure that only suitable candidates were ordained to holy orders.

While requests for dispensation from illegitimacy declined between 1513 and 1542, Appendix Nine demonstrates that requests classified *de diversis formis/materiis* increased. One element of this increase was the growing number of requests for licence. As has just been noted, requests for licence to grant marriage dispensation begin to appear during this period. Requests for licence to alienate ecclesiastical patrimony also became more common, as the trend of granting land through feu ferm became more common in sixteenth-century Scotland. Requests of this sort became a more common aspect of the

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<sup>142</sup> For further details, see McDonald, "The Penitentiary and Ecclesiastical Careers", 44-76, 186-216.

<sup>143</sup> The provincial council of the Scottish church passed a series of reforming acts in the sixteenth century. See Patrick, *Statutes*, 84-149, 238-284. See too the arguments put forth by D. McRoberts, ed., *Essays on the Scottish Reformation* (Glasgow, 1962); Ian B. Cowan, *The Scottish Reformation: Church and Society in Sixteenth Century Scotland* (London, 1982), 72-88; Jenny Wormald, *Court, Kirk and Community: Scotland, 1470-1625* (4th reprint, Edinburgh, 1997), 81-89. Senior clerics in various regions of the Latin West attempted to bring reform during this period. See Diarmaid MacCulloch, *Reformation: Europe's House Divided, 1490-1700* (London, 2003), 88-94.

Penitentiary's daily business as a result of the faculties delegated by Paul II after 1465, and by 1542, these types of requests formed the bulk of supplications submitted by Scottish clerics.

Requests for absolution also increased between 1513 and 1542. While on the one hand, this may be a result of an increase in lawlessness, it may also be a direct result of the reforming efforts of archbishops such as Forman. The majority of cases involving murder and other crimes were dispatched during this period. And, it is perhaps significant to note in this context that the majority of these cases emanated from the dioceses of St Andrews, Glasgow and Aberdeen. The period from 1513 to 1542 also witnessed a rise in the number of Scottish supplicants who presented their supplications in person. Supplicants may have found it easier to travel, given that vessels departed from Scottish ports, such as Leith, much more frequently during the sixteenth century.<sup>144</sup>

Although a greater number of supplications are recorded for 1472-92 than for 1449-60 or 1513-42, within each period there was considerable annual variation in the number of petitions dispatched to Rome. For instance, during the years 1450, 1454-1456, 1459, 1475, and 1487 a relatively large number of requests for dispensations from illegitimacy were dispatched. Whereas the average number of these supplications ranged between ten and twelve per annum, in these particular years they numbered between twenty and forty. Moreover, in 1487, 1524 and 1535, a significant number of cases was classified *de diversis formis/materiis*. In the fifteenth century, the average number of these supplications averaged about three per annum; in the sixteenth century, the average increased to eight per annum. In 1487, seven supplications, each involving clerics who violated canon law, were dispatched to the Penitentiary. In 1524, the Penitentiary granted absolution to ten supplicants who committed acts of violence, and five who requested licence, whereas in 1535, fifteen Scottish requests –

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<sup>144</sup> Ditchburn, *Scotland and Europe*, 12-13.

eight for licence and seven for absolution – were classified *de diversis materiis*.

It is difficult to pinpoint a precise reason for these annual fluctuations. The increase in supplications submitted in 1450 and in 1475 can probably be explained by the fact that these were holy years, which naturally brought thousands of pilgrims to the *curia*, many of whom submitted petitions to the Penitentiary and other papal offices.<sup>145</sup> As for other years, it is possible that particular clerics visiting the *curia* delivered several supplications. For instance, twenty-one supplicants were dispensed from illegitimacy in 1454. Five of these supplicants – who were dispensed between January and May 1454 – were from Aberdeen. Laurence Piot, the archdeacon of Aberdeen, who was dispatched to pay the common services for George Storiswood, bishop of Brechin, was present in the *curia* at the same time. He may have delivered all Aberdonian – or indeed all of the Scottish – supplications.<sup>146</sup> Between September and December 1455, Thomas Burton, who was provided to the seat of the Isles, was present in the *curia* to pay the common services. It is perhaps no coincidence that in the same months, four supplicants from the Isles were granted dispensation from illegitimacy.<sup>147</sup> Archbishop William Scheves was present in the *curia* in 1487, the year in which he was granted legatine status.<sup>148</sup> In that same year, twelve supplicants from the diocese were dispensed from illegitimacy. While fluctuations in the number of illegitimacy supplications may reflect the actions of a particular cleric in the *curia*, it is more difficult to explain the fluctuations in supplications classified *de diversis formis/materiis*. Many who presented their petitions did so in person, especially in 1487, 1524, and 1535, and it may be that their appearance in Rome simply reflects the comparative ease and safety of travel during these years.

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<sup>145</sup> Schmugge has noted an increase in the number of illegitimacy supplications during holy years. See *idem*, *Kirche, Kinder, Karrieren*, 50-52, 57.

<sup>146</sup> Cameron, *Apostolic Camera*, 45.

<sup>147</sup> Cameron, *Apostolic Camera*, 46.

<sup>148</sup> Cameron, *Apostolic Camera*, 219.

## Conclusion

On the whole, supplications which Scottish clerics advanced to the Penitentiary involved matters that were routinely brought before the office by their European contemporaries. For the most part, Scottish supplications conform to the general proportional trends evident in studies undertaken for the Empire and Scandinavia. For instance, the majority of candidates from Scotland were illegitimate, while the majority of ordained clerics were guilty of violent crimes. Similar findings have been noted with regard to supplications from the Empire, Uppsala (Finland/Sweden) and Norway.

The requests from Scottish clergy which are to be found in the Penitentiary registers paint a relatively positive picture of the ecclesiastical establishment. The majority of senior clerics in the registers requested licence in accordance with canon law, while few required absolution. A similar pattern is found among petitions from senior clerics in the Registers of Supplications. It is worth noting that, on the whole, relatively few senior clerics are known to have violated canon law. Few are known to have committed violent acts or other infractions, such as simony or perjury. Those that did, as can be seen, applied for grace. Moreover, few are known to have fathered illegitimate children. Although there are notable exceptions, such as Farquhar Maclean, Robert Cairncross and Archbishop Robert Blackadder, by contrast hundreds of parish priests fathered illegitimate children.

The cases from subordinate clergymen also paint a positive picture of senior clerics. A number of requests, particularly from St Andrews, Glasgow and Aberdeen, suggest that many clerics applied to the Penitentiary as a result of the intervention of bishops and senior aids.<sup>149</sup> The vast number of candidates to orders applied for dispensation before they were ordained. Canon law ordered that all clerics were to undergo

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<sup>149</sup> For further discussion, see McDonald, "The Papal Penitentiary and Ecclesiastical Careers", 61-64, 112-170, 217-234.



an examination in order to be considered suitable for ordination.<sup>150</sup> Those who were affected by impediments, such as illegitimacy, disability or minority of age, were to be prevented from ordination without dispensation. That only seventy-five out of 1127 candidates did not apply for dispensation before ordination suggests that these regulations were enforced reasonably effectively in the later medieval kingdom.<sup>151</sup> Canon law also ordered that diocesan authorities were to suspend clerical malefactors from their office and benefice until they received absolution and/or dispensation.<sup>152</sup> It has been noted that one-third of the supplicants who petitioned the Penitentiary concerning violations of canon law indicated that they had been suspended from office in actions conducted before diocesan consistory courts, by various judicial authorities. The Penitentiary records demonstrate that Scottish diocesan authorities maintained the principles of canon law, and enforced them upon both candidates to orders and ordained clergy.

Nevertheless, it has been shown that supplications were not dispatched evenly from the thirteen Scottish dioceses. Demography and proximity to Scottish ports may partially account for the large number of supplications from St Andrews, Glasgow and Aberdeen. However, the patterns noted may also be indicative that enforcement of canonical regulations may have been more common in St Andrews, Glasgow and Aberdeen than more remote dioceses. Given their legal training and proximity to universities, the diocesan authorities in St Andrews, Glasgow and Aberdeen may have been more pro-active in enforcing canonical regulations upon candidates and ordained clergy in their charge. The lower number of cases from remote dioceses, such as Argyll, Caithness and Ross, may simply reflect a lower demographic ratio. On the other hand, the low number of requests – for absolution in particular – may suggest that, despite the legal training and

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<sup>150</sup> D. 24, c.2, c.5-7; X 1.11.1-3; X. 1.12.1; X 1.14.14, 15.

<sup>151</sup> For further details on the ordination examination in Scotland, see McDonald, "The Papal Penitentiary and Ecclesiastical Careers", 10-19.

<sup>152</sup> C.11 q.3 c.103; X 2. 28.53; X 5.27.3-5, 7. Vodola, *Excommunication*, 56-58.

qualifications of many of the bishops in these dioceses, the authorities may have been unable to bring to answer those who violated the law.

Despite distance and expense, Scots advanced hundreds of supplications to the Penitentiary during the later middle ages. Their requests outnumber those from other “peripheral” regions, such as Scandinavia. While Finns, for example, advanced only 122 supplications to the office of the Papal Penitentiary between 1449 and 1527, Scots, as has been indicated, advanced 3,097 supplications to this office alone.<sup>153</sup> The cases from clerics in the Penitentiary registers contribute a significant addition to the available ecclesiastical sources. They provide examples of the ways in which canon law was applied, and how varied this application seems to have been among the dioceses. Moreover, through the study of their requests, it is possible to gain some insight into the processes of clerical recruitment, training and ordination. And, it is thanks to the Penitentiary, that many of these supplicants have been saved from complete anonymity.

*Centre for Medieval Studies,  
University of Bergen*

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<sup>153</sup> Salonen, “The Long Path to Forgiveness”, 288.

## Appendix One: The Categories of the Penitentiary Registers<sup>154</sup>

### *De Matrimonialibus – Concerning Marriage*

Supplications registered under this heading concerned requests for dispensation to marry despite impediments; the majority of cases are from laity, although there are some supplications from clerics in minor orders

### *De Declaratoriis – By Declarations (DEC)*

Supplications in this category concerned requests for declaration of innocence.

### *De Uberiori (gratia) – Concerning Further Graces (DU)*

Supplications in this category concerned requests from illegitimate men who, having been dispensed to enter an ecclesiastical career, desired further dispensation to hold a second or third benefice with pastoral care.

### *De Confessionalibus – Concerning Confession (DC)*

Supplications in this category concerned requests to choose a personal confessor, either for five years or for life. This category was often divided into sub-categories in the Penitentiary registers: *de confessionalibus perpetuiis*, *de sentiis generalibus*, *de sentiis in forma cupientes*, *de altari portatili*

### *De Diversis Formis/Materiis – By Various Forms (DIV)*

Supplications registered under this heading concern three types of requests: 1) absolution from violations of canon law; 2) dispensation to contravene canonical stipulations; 3) licence for particular devotional practices or to augment pastoral authority. In the sixteenth century, this category was combined with the *de declaratoriis* category, and was renamed *de diversis materiis*

### *De Defectu Natalium – Concerning the defect of birth (DDF)*

Supplications in this category concerned requests for dispensation from illegitimacy. During this sixteenth century, this category was combined with the *de uberiori* category and was renamed *de illegitimiis*.

### *De Promotis et Promovendis – Concerning those promoted and those to be promoted (PPR)*

Supplications in this category concerned requests from candidates to holy orders who desired dispensation from disability, minority; other supplications concerned requests for dispensation to be promoted by a foreign bishop or by the pope, or by a bishop in residence at the *curia*.

<sup>154</sup> ASV, Penitenczicria Ap. Reg. Matrim. et Div., vols 4 – 109; Salonen, *Well of Grace*, 22-23, 177-178, 197-199, 207; Schmutge, Hersperger, Wiggenhauser, *Die Supplikenregister*, 37-47.

**Appendix Two: The Status of Scottish Clerical Supplicants in the registers of the Papal Penitentiary, 1449-1542**

<b>Status/Category</b>	<b>DIV</b>	<b>DEC</b>	<b>DDF</b>	<b>DU</b>	<b>PPR</b>	<b>DC</b>	<b>TOTAL</b>
Archbishop	1	0	0	0	0	0	1
Bishop	4	0	0	0	0	0	4
Abbot	10	0	0	0	0	1	11
Archdeacon	2	0	0	0	0	1	3
Canon	51	0	15	10	12	7	95
Deacon	2	0	0	0	0	0	2
Priest	145	20	24	49	27	39	304
Subdeacon	7	0	0	1	0	0	8
Monk	20	0	15	0	4	10	49
Mendicant	8	0	10	0	0	0	18
Nun	1	0	3	0	0	1	5
Clerk	49	2	302	20	33	3	409
Acolyte	12	1	40	1	0	0	54
Scholar	18	4	597	17	23	0	659
<b>Total</b>	<b>330</b>	<b>27</b>	<b>1006</b>	<b>98</b>	<b>99</b>	<b>62</b>	<b>1622</b>



**Appendix Three: The Location of Scottish Clerical Supplicants in the registers of the Papal Penitentiary, 1449-1542**

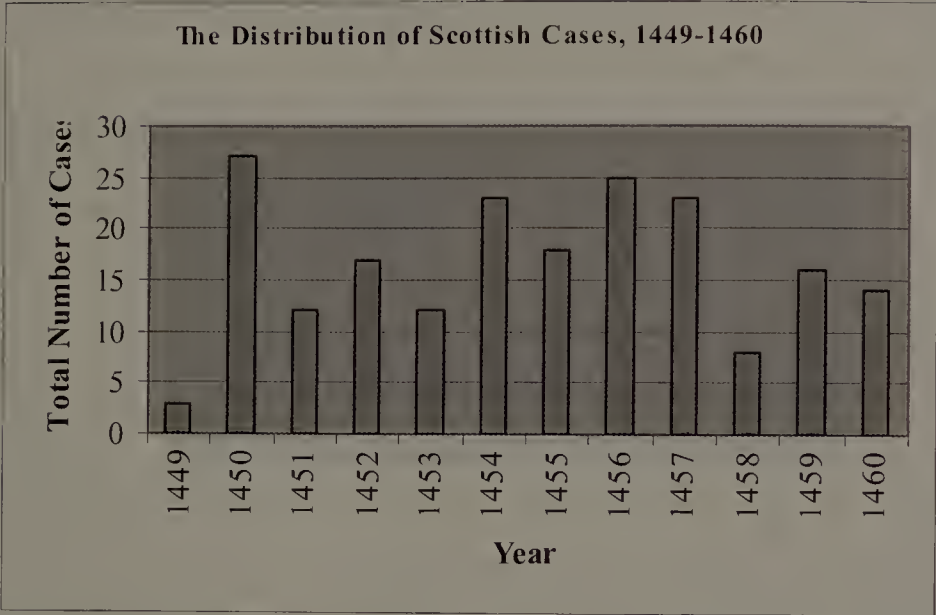
<b>Diocese/Category</b>	<b>DIV</b>	<b>DEC</b>	<b>DDF</b>	<b>DU</b>	<b>PPR</b>	<b>DC</b>	<b>TOTAL</b>
St Andrews	162	11	450	29	60	34	746
Glasgow	82	8	273	21	33	10	427
Aberdeen	42	3	84	15	0	5	149
Dunkeld	8	3	20	7	0	4	42
Moray	15	0	29	7	3	2	56
Dunblane	5	0	18	0	1	2	26
Brechin	4	1	18	5	2	3	33
Ross	3	0	39	3	0	1	46
Argyll	0	0	11	3	0	0	14
Galloway	5	1	30	6	0	0	42
Caithness	1	0	6	0	0	1	8
Orkney	2	0	6	1	0	0	9
Sodor	2	0	21	0	0	0	23
<b>Total</b>	<b>330</b>	<b>27</b>	<b>1006</b>	<b>98</b>	<b>99</b>	<b>62</b>	<b>1622</b>

# Appendix Four: The Percentage of Taxes From Spiritualities<sup>155</sup>

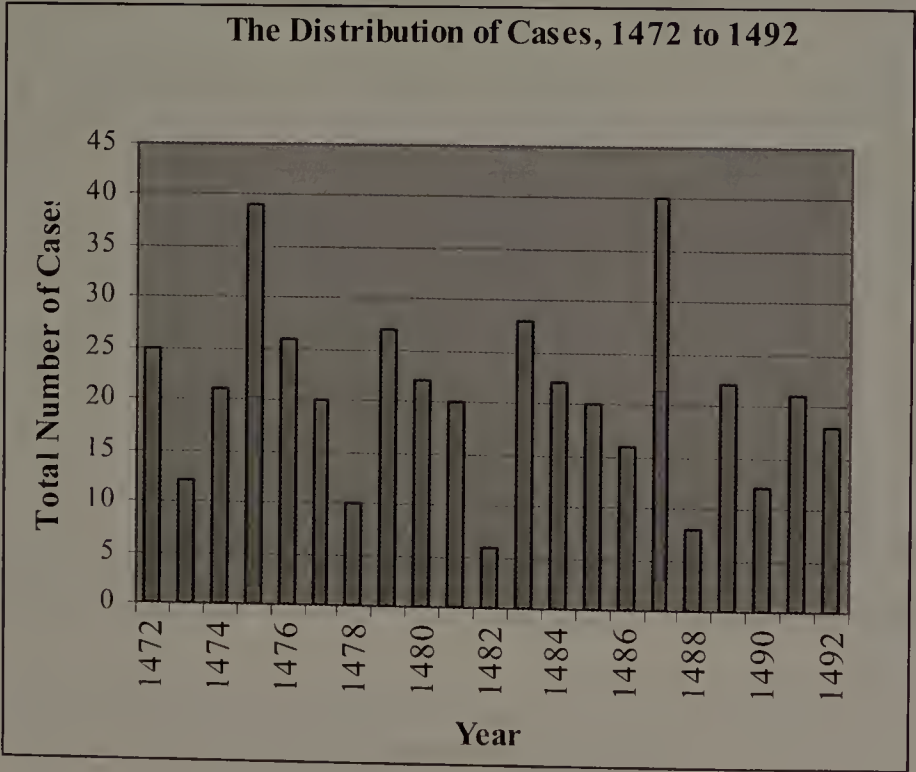
Diocese	Percentage of Taxes Paid	Percentage of Supplicants
St Andrews	37.6	40.6
Glasgow	25.1	21.5
Aberdeen	13.2	8.2
Dunkeld	5.8	3.5
Dunblane	3.6	2.5
Ross	2.4	7.4
Moray	5.4	6.3
Argyll	1.6	2.4
Brechin	3.1	1.9
Galloway	1.4	4.7
Caithness	.81	1.0

<sup>155</sup> The figures are taken from *The Atlas of Scottish History to 1707*, ed., P.G.B. MacNeil and H.L. MacQueen (Edinburgh, 1996), 304-305 and Alexander Stevenson, "Trade Between Scotland and the Low Countries in the Later Middle Ages" (University of Aberdeen, unpublished Ph.D. thesis, 1982), 245-270.

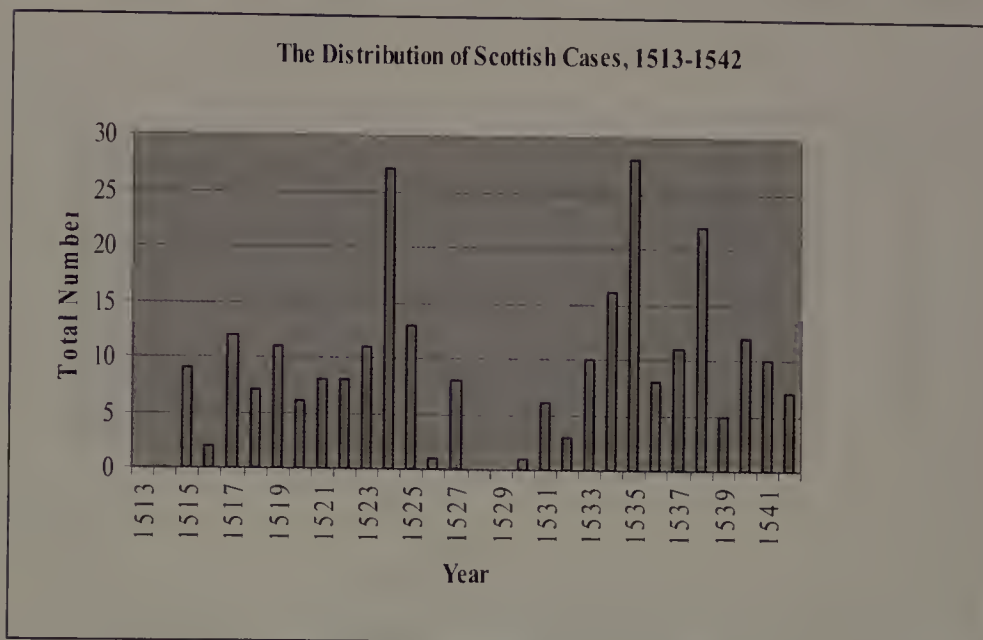
Appendix Five. The Distribution of Scottish Cases, 1449-1460



Appendix Six. The Distribution of Scottish Cases, 1472-1492



### Appendix Seven. The Distribution of Scottish Cases, 1513 to 1542



### Appendix Eight: Scottish Cases in the Penitentiary Categories

Category	1449-1460	1472-1492	1513-1542	Total	%
<i>De diversis formis</i>	9	39	151	199	22.4
<i>De Declaratoriis</i>	0	10	11	21	2.4
<i>De Defectu Natalium</i>	147	321	82	550	61.6
<i>De Uberiori</i>	17	22	9	48	5.4
<i>De Promotis</i>	3	28	9	40	4.5
<i>De Confessionalibus</i>	17	14	0	31	3.5
<i>De Sent. Generalis</i>	1	1	0	2	.2
<i>De Conf. In Forma Cupientes</i>	0	0	0	0	0
<b>Total</b>	<b>194</b>	<b>435</b>	<b>262</b>	<b>891</b>	<b>100</b>



**Appendix Nine: The Distribution of Cases from Scottish Dioceses,  
1449-60, 1472-1492, 1513-1542<sup>156</sup>**

<b>Diocese/Category</b>	<b>div</b>	<b>dec</b>	<b>ddf</b>	<b>du</b>	<b>ppr</b>	<b>Dcp</b>
St Andrews	97	11	205	17	20	16
Glasgow	62	7	112	12	19	7
Aberdeen	25	3	54	2	0	3
Dunkeld	8	2	18	3	0	2
Dunblane	5	0	16	0	1	0
Moray	12	0	29	5	3	1
Ross	3	0	37	3	0	1
Argyll	0	0	11	3	0	0
Sodor	2	0	21	0	0	0
Orkney	2	0	6	1	0	0
Caithness	1	0	6	0	0	1
Galloway	5	1	24	4	0	0
Brechin	3	1	11	0	2	2
<b>Total</b>	<b>225</b>	<b>25</b>	<b>550</b>	<b>50</b>	<b>45</b>	<b>33</b>

<sup>156</sup> ASV, Penitenzieria Ap., Reg. Matrim. et Div., vols. 4-109.

